

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Delyle Augare,

Civil No. 16-4126 (DWF/KMM)

Petitioner,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Warden B. True and
Federal Bureau of Prisons,

Respondents.

This matter is before the Court upon Petitioner Delyle Augare's objections (Doc. No. 12) to Magistrate Judge Katherine Menendez's June 26, 2017 Report and Recommendation (Doc. No. 11) insofar as it recommends that Petitioner's Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 be denied and that this action be dismissed. Respondents filed a response to Petitioner's objections on July 24, 2017. (Doc. No. 14.)

The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Petitioner's objections. In the Report and Recommendation, the Magistrate Judge explained that the record shows that in a prison disciplinary proceeding, the Bureau of Prisons afforded Petitioner sufficient due process, noting that he received advance notice of the disciplinary charges against him, an opportunity to call witnesses and present evidence in his defense, and a written statement of the evidence relied on and the reasons for the loss of forty-one days of conduct time, among other sanctions. In addition, the

Magistrate Judge explained that the record shows sufficient evidence supporting the Disciplinary Hearing Officer's decision to discipline Petitioner. Petitioner objects and seeks restoration of the good-conduct time credits which he lost after the Disciplinary Hearing Officer determined that Petitioner violated a relevant code for possessing the cell phone found in the common area of a cell that he shared with other inmates.

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The Court finds no reason that would warrant a departure from the Magistrate Judge's thorough and well-reasoned recommendation to dismiss with prejudice Petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Based upon the *de novo* review of the record and all of the arguments and submissions of the parties and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Petitioner Delyle Augare's objections (Doc. No. [12]) to Magistrate Judge Katherine Menendez's June 26, 2017 Report and Recommendation are **OVERRULED**.
2. Magistrate Judge Katherine Menendez's June 26, 2017 Report and Recommendation (Doc. No. [11]) is **ADOPTED**.
3. Petitioner Delyle Augare's Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 (Doc. No. [1]) is **DENIED**.
4. This action is **DISMISSED WITH PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: August 22, 2017

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge